

Subject: Testimony in Support of RSB 302
From: harold@plasticsandconcepts.com (harold@plasticsandconcepts.com)
To: prasad.srinivasan@housegop.ct.gov;
Date: Tuesday, March 1, 2016 7:13 AM

Rep. Prasad Srinivasan,

I have attached my testimony supporting RSB 302.

This is the testimony that I will use at Tuesday March 2 public hearing.

Harold S. Harris
Chief Engineer

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Attachments

- hThree Strikes.pdf (84.36KB)
- hfines for non registration.pdf (557.65KB)

Testimony in support of RSB 302 by Harold S Harris, Glastonbury, CT 860-633-5661 March 1, 2016

"Regulatory flexibility analyses of proposed regulations" provision:

Businesses should get three attempts (strikes) to comply with Government regulations.

Small businesses do not have the staff to keep up with the ever changing and expanding list of regulations. As a result they can be surprised by fines and criminal penalties that hurt or destroy their business. These surprises can come as the result of employee complaints, customer complaints, supplier complaints, neighbor complaints, competitor complaints or regulator reviews.

Strike one:

Business is notified of their non compliance to a regulation. The business is advised as to corrective action necessary. No fines or punishment is given.

Strike two:

Corrective action is implemented. If a review determines that the corrective action is insufficient the business is advised as to modification required. No fines or punishment is given.

Strike three:

If corrective action has not been satisfactorily implemented fines and punishment could be applied.

Examples:

#1 See attached articles from the Hartford Courant dated Aug. 2, 2013 "State Collects at Least \$1M yearly" and July 17, 2009 "Register or Else" : Example of how easy it is to be surprised by requirements.

Companies did not know they needed to register. They were fined. From a small nonprofit build-a-bear to Pratt and Whitney Material Management, inc. Note the difference in tone in the two articles.
Blumenthal and Bysiewicz vs. Jesen and Merrill.

#2 See State of Connecticut Department of Environmental Protection Bureau of Water Management Planning & Standards Division, General Permit for the Discharge of Wastewater Associated with Food Preparation Establishments : Example of alternate means of compliance.

A law that had been a requirement for new establishments was applied to existing establishments. The four business owners that I knew in this industry learned of the law from their health inspectors in November and December. They needed to be in compliance by July 31 the following year. They were told that they need to install the grease trap described on page 8 (1). The estimated cost of this installation was \$8000.

After further discussing the project with their contractors my friends discovered that they could install a unit described on page 10 (2). This unit cost \$3,500. They were not informed of this option by the government. But the inspector approved the solution after his review of the law.

There are two other compliance methods Page 11 (3) and page 11 (4). My friends were not informed of these options. They may have been in compliance with their existing grease traps. Thus no additional cost.

OUT-OF-STATE FIRMS

State Collects At Least \$1M Yearly In Penalties

Companies Failed To Register, Pay Fee

By SAMEERA KAMAL
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For years, Connecticut has collected a steady stream of income — \$1 million or more annually — from out-of-state companies that fail to register and pay their fees to do business here, and the total for fiscal 2013 was no exception.

A recent report from Connecticut Secretary of State Denise Merrill and Attorney General George Jepsen said that for the year ending June 30 the state took in more than \$1.3 million in penalties — a number approaching \$1.8 million.

The penalties were collected from 261 out-of-state companies operating in Connecticut without legal authority to transact business. Penalties ranged from \$200 to \$54,570.

The total amount of penalties collected in 2013 was slightly less than fiscal 2012, total of \$1.4 million, collected from 320 companies.

Under state law, business corporations, non-stock corporations, limited partnerships, limited liability companies, limited liability partnerships, and statutory trusts formed outside of Connecticut must obtain a certificate of authority from the Secretary of the State's Office and pay a fee before conducting business in Connecticut.

"It's something that's good for consumers, to have companies that are doing business in the state of Connecticut on our registry so if someone needs to get in touch with them for good or bad reasons, they're listed," said Av Harris, spokesperson for the secretary of the state's office.

Most businesses self-reported their failure to register in the process of other transactions with the state such as mergers, though some reports came from competitors or individuals with complaints.

The offices of the secretary of the state and the attorney general have been working on this joint initiative every year since 2007, Harris said.

PENALTIES, AG

"The enforcement effort and publicity surrounding it also serves to educate the public — including out-of-state organizations — about the rules of transacting business in Connecticut," said Susan Kinsman, spokeswoman for the attorney general's office. "Often companies are unaware of the requirements, rather than trying to deliberately circumvent the law."

The law aims to protect in-state companies from unfair competition and to place domestic and foreign organizations on an equal footing. It also protects consumers with grievances against out-of-state firms by requiring a point of contact in Connecticut to accept legal papers if court action is taken.

Penalties

According to page 45 of the report for fiscal year 2006 and 2007, annualized \$0.7 million in 2008, then number dropped to \$1 million, but it has been increasing since.

Parties vary depending on what kind of legal entities they represent. An out-of-state publicly traded company applying for a license and certificate to do business in Connecticut would pay

\$387, for example, and an out-of-state LLC or LLP would pay \$100. Companies that fail to register face a fine of \$300 for every month the company is transacting business in Connecticut without a certificate of authority.

Along with the requirement to transact business, out-of-state companies must also file an annual report with the secretary of the state's office. About 50,000 foreign entities have property filed with the secretary of the state's office.

David Szwedoff, a partner at Day Pitney, a legal firm that represents businesses that have been penalized, said that while the cost of registration is nominal, many companies that start to conduct business are unaware of the registration requirement.

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"We've had some clients who have been in the state for 10 years or five years and they've been paying taxes, but they didn't know you had to pay an annual fee," Szwedoff said. "Sometimes their accountants haven't told them."

"WE WILL FIND YOU, AND WE WILL FINE YOU" - SUSAN BYSIEWICZ

State To Companies: Register Or Else

By LYNN DOAN
Courant Staff Writer

Deloitte, MGM Mirage, Pratt & Whitney Sunglass Hut, Vera Bradley — all responsible citizens of the commerce world, right?

Connecticut's attorney general and secretary of the state might beg to differ.

According to a list they released Thursday, these household names are among the 438 "renegades" that illegally conducted business in Connecticut in the past fiscal year. These companies apparently failed to register their businesses — or in some

cases, their subsidiaries or operating units — with the secretary of the state's office. All of them were forced to pay fines, ranging from \$225 to \$22,275 — after it was revealed that they had not filed the proper papers and paid the required fees that amount to about \$225 a year. And the 438 have all paid — a total of \$1.2 million.

The offenders run the gamut, from international financial services corporations to home repair and pole maintenance outfits. But the list contains names you might least expect

FINES, A16

renege, law-breakers, operating illegally and preventing us from holding them accountable when they abuse customers, when they break our laws," he said.

Companies listed by the state as being fined paint a different picture.

A spokesman for MGM Mirage said the company's management and technical services arm, which is listed as an entity fined for not registering is in fact registered with the secretary of the state's office and has been for years. He said MGM Mirage is looking further into

press conference Thursday.

"We want to be very clear to these businesses who are flagrantly violating the law that we will find you, and we will fire you."

Virtually all businesses in the state — with the exception of some self-employed business owners who are not incorporated — are legally required to register with the state. The filings make it easier for state officials and consumers to go after companies for wrongdoing.

Attorney General Richard Blumenthal said,

"These companies are

the alleged fines.

"My folks have checked records, and everything they can find indicates that we are current and have been," MGM Mirage spokesman Gordon Absher said. "If someone has found a discrepancy, we are unaware of, we are eager to have a conversation."

Other companies fined are relatively obscure units of corporations, like Pratt & Whitney Material Management Inc. and Sunglass Hut Trading LLC.

This could indicate that the

companies were not aware

that their individual units

needed to be registered.

The information from business filings, which contain addresses and business agents of companies, is kept at the secretary of the state's office, which acts as Connecticut's central repository for basic business information. Agency spokesman Av Harris said the office receives a daily stream of calls from lawyers looking for the addresses of companies they accuse of violating business practices.

"So if you're not registered, and you fleece a person, how are we going to ever track you down? Where are we supposed

to send the subpoena?" Harris said. "It doesn't make it impossible, but it makes it very difficult to find these companies and hold them accountable."

Bysiewicz said some of the businesses revealed to be unregistered say they didn't know they were required to register, while "others know full well but choose not to," she said.

Blumenthal, whose office directly contacts unregistered businesses, said the overwhelming response from offenders is: "We never thought you'd catch us."

"They know," he said.

Calls to Pratt & Whitney and Sunglass Hut were not returned Thursday.

FROM PAGE ONE

Cracking Down

State officials have been going after businesses that fail to register with the secretary of the state's office.

» **Businesses fined for not registering in the past fiscal year:** 439

» **Fines:** \$225 to \$22,275

» **Cost to register:** \$228

» **Some of the Build-A-Bear Workshop Bear Hugs companies:** Foundation Inc.; Deloitte Investment Advisors LLC; MGM Mirage Management & Technical Services LLC; Pratt & Whitney Material Management Inc.

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